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Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to Sierra Leone*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes on his mission to Sierra Leone. In his report, submitted pursuant to Human Rights Council resolution 27/23, the Special Rapporteur shares findings and recommendations derived from his official country visit.

* The present report was submitted after the deadline in order to reflect the most recent information.

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** Circulated in the language of submission only.

I. Introduction

1. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes conducted an official visit to Sierra Leone at the invitation of the Government, from 14 to 25 August 2017. The purpose of this visit was to monitor and assess steps taken by the Government to protect the human rights associated with the management of hazardous substances and wastes throughout their life cycle.

2. The Special Rapporteur expresses his deepest gratitude to the Government of Sierra Leone for its invitation. He commends the exemplary cooperation extended by those involved despite the national emergency resulting from the floods and landslides affecting Freetown and surrounding areas on 14 August 2017. The Special Rapporteur reiterates his heartfelt condolences to the families of the victims.

3. During the visit, the Special Rapporteur had the honour to meet with the President, Ernest Bai Koroma, representatives of different ministries, departments and agencies of the central Government, the Human Rights Commission of Sierra Leone, the police, business enterprises, civil society representatives, local officials, traditional leaders and communities in both urban and rural settings. The Special Rapporteur met with representatives of the international community, including the United Nations country team. He thanks the Resident Coordinator and the personnel of the United Nations Development Programme (UNDP) for facilitating his visit, and also thanks all the civil society organizations, business enterprises and individuals with whom he met for their time and cooperation and for sharing information on their views and experiences.

4. The Special Rapporteur met with local communities in Freetown, Bo and Makeni and in the districts of Pujehun and Kono. He visited a large-scale palm plantation of the Société financière des caoutchoucs (Socfin), a Luxembourg-based company that operates in multiple African countries. The company's plantation and processing plant stretch over 18,000 ha of land in the Pujehun District. The Special Rapporteur also visited the Koidu Kimberlite Project, a mining site in the Kono District owned and operated by Koidu Limited, a private business enterprise owned by BSG Resources Limited through its subsidiary, OCTÉA Limited. During the visits, he met with local residents and workers, paying particular attention to issues related to the management of solid waste and to the impact of activities of the agriculture and mining sectors on workers and communities. He is grateful to those who made time to meet with him and discuss the challenges, opportunities and desires in relation to the mandate.

II. General context

5. Sierra Leone has made significant advancements in the promotion of peace, democracy and economic development since the end of the civil war in 2002.[1] While the outbreak of the Ebola virus disease in 2014 and the decline in the international price of iron ore in 2013 created a significant setback,[2] economic growth has resumed, supported, in particular, by investments in the mining and agriculture sectors.

6. Sierra Leone has potential for significant economic expansion despite acute socioeconomic challenges. Although, according to a report entitled *African Economic Outlook 2017: Entrepreneurship and Industrialisation*, the country is currently the 154th economy in the world and the 38th in Africa, it has one of the largest ports in the region and vast water resources and fertile soils with potential for agriculture, fishing and tourism. It is also among the top 10 diamond-producing countries in the world, is one of the largest rutile

[1] See www.sl.undp.org/content/sierraleone/en/home/countryinfo.html.

[2] Authorities estimate that there was a 50 per cent rate of job loss in the private sector, while agricultural and manufacturing outputs declined by 30 per cent and 60 per cent, respectively; Sierra Leone, *National Ebola Recovery Strategy for Sierra Leone 2015–2017* (2015).

and bauxite producers, is a major producer of gold and has the second largest iron ore deposits in the world.

7. Poverty remains a central concern. In a report in 2011 by the Wye City Group of the Food and Agriculture Organization of the United Nations (FAO) entitled "Agricultural and rural development statistics in Sierra Leone", it was estimated that about two thirds of the population lived in rural areas, of which about 70 per cent lived below the poverty line. According to the *Human Development Report 2016: Human Development for Everyone*, Sierra Leone is ranked quite low in the human development index, ranking 179th (out of 188), and in the gender inequality index, standing at 151. Despite remarkable strides and reforms, youth unemployment, corruption and shortcomings in fiscal policies and infrastructure are also commonly recognized among the challenges that Sierra Leone faces on its way to achieving sustainable development and effective protection and promotion of human rights.[3] Sierra Leone is classified by FAO as a low-income food-deficit country. It is estimated that nearly half of the population is food insecure.[4] Undernutrition is prevalent among children and pregnant women,[5] which can exacerbate the adverse impacts of their exposure to toxic chemicals. Maternal and infant mortality are among the highest in the world, as is the prevalence of major communicable diseases.[6] Air and water pollution contribute to poor health outcomes.[7] The availability of safe water and sanitation also remains an area of concern.

8. Most stakeholders acknowledge the increased need for rapid improvements in chemicals and waste management in Sierra Leone, in the light of the policy focus on economic prosperity highlighted in the Government's Agenda for Prosperity, the main policy document guiding government development initiatives between 2013 and 2018. Agriculture and mining are the main drivers for economic growth, and the Agenda for Prosperity, recognizing the elevated risks of pollution and contamination in these sectors, includes a specific pillar focusing on the need to address inadequate management of resources, gaps in norms and policies and insufficient cross-sectorial coordination. The success of development platforms, such as the success of the Agenda for Prosperity in achieving its goals of poverty reduction, is closely related to maintaining continued attention to sustainable development and human rights, including the effects of economic activities on public health and the environment, the adoption of regulations protecting workers and marginalized communities and the promotion of access to justice.

III. Governance

A. Relevant human rights obligations

9. Numerous civil, political, economic, social and cultural rights are associated with the management of toxics, and those rights are interlinked, interdependent and indivisible (see also A/HRC/36/41, para. 6). The fact that Sierra Leone has recognized and is committed to upholding its obligations regarding the protection from exposure to hazardous substances and wastes is confirmed by its participation in key international human rights, environment and labour treaties in these domains.

10. Sierra Leone has not ratified the optional protocols allowing for individual complaints regarding the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child or the Convention on the Elimination of All Forms of Discrimination against Women. During its last universal periodic review, Sierra Leone agreed without qualification to accede to or ratify various international instruments,

[3] See www.worldbank.org/en/country/sierraleone/overview.

[4] World Food Programme (WFP), "WFP Sierra Leone: country brief", July 2018.

[5] United Nations Children's Fund (UNICEF), "Sierra Leone: country programme document 2015–2018", 2014.

[6] See www.aho.afro.who.int/profiles_information/index.php/Sierra_Leone:Analytical_summary_-_Health_Status_and_Trends.

[7] World Health Organization (WHO), Country cooperation strategy 2017–2021: Sierra Leone (2017).

including these optional protocols. However, the ratification of the protocols had not been concluded at the time of writing the present report.

11. Sierra Leone is party to the main global treaties for chemicals and waste management. The country is party to the Stockholm, Basel and Rotterdam conventions and participated for the first time in the 2017 conferences of the parties to the conventions. Sierra Leone is also a party to the Minamata Convention. While a signatory since 2003, Sierra Leone has not yet ratified the Bamako Convention.

12. Thirty-five International Labour Organization (ILO) conventions, including on forced labour, freedom of association, right to organize and collective bargaining, equal remuneration, discrimination at work and child labour, have been ratified by Sierra Leone. However, it has not ratified several ILO conventions relevant to the protection of workers from hazardous substances.[8]

B. Mobilizing financial and technical resources and combating corruption

13. The Special Rapporteur notes the repeated recognition by government entities of the gaps in the regulation and oversights in the use of hazardous chemicals and the slow pace in reversing this scenario.

14. Low-income countries often cite lack of financial and technical resources as a primary challenge in protecting people against exposure to pollution, toxic industrial chemicals, pesticides and other hazardous substances that pose grave threats to life, health and other human rights. This truly is a challenge, but is completely within the control of Governments to rectify. Three factors predominate in cases where Governments are unable to mobilize financial resources for toxic pollution control and chemicals management: a misperception by States that the cost of action is either (a) unaffordable or (b) greater than the cost of inaction (see also A/HRC/36/41, para. 63) and (c) the failure to mainstream within development agendas.

15. Examining the situation in Sierra Leone, the Special Rapporteur concludes that the country should urgently take robust, positive action to increase financial resources for the control of hazardous substances and wastes. In particular, the country has potential for generating sustainable financing through cost-recovery systems, thereby bolstering the private sector's financial participation in meeting the costs of full implementation and enforcement of national laws concerning chemicals.[9] Sierra Leone should develop a strategy to implement cost-recovery systems and other appropriate mechanisms to increase financial resources and national capacity (see UNEP, *LIRA-Guidance*; SAICM/ICCM.4/6, annex, para. 85). All stakeholders in the national planning processes could be encouraged to integrate such systems to realize the economic benefits of providing resources for the sound management of hazardous substances and wastes. In doing so, they should consider mainstreaming and developing capacity for assessing the costs of inaction and the benefits of action on chemicals issues at the national, regional and global levels. The costs of monitoring and inspection, of technical capacity for risk assessments and of other necessary regulatory and enforcement activities could be further defrayed to support the development of a robust chemical management system (see also A/HRC/36/41, para. 65).

16. International cooperation, including financial and technical assistance, has also been provided to assist low-income countries in developing capacities needed to protect human rights associated with the management of toxic chemicals. The Special Rapporteur notes the support of other Governments and international organizations and institutions in assisting Sierra Leone. Waste management is one area that has received attention, although further action is needed, as described in section IV.C. The Special Rapporteur was informed of a project funded by the United Kingdom of Great Britain and Northern Ireland

[8] ILO conventions No. 155, No. 170, No. 174, No. 176, No. 184 and No. 187.

[9] United Nations Environment Programme (UNEP), *UNEP Guidance on the Development of Legal and Institutional Infrastructures and Measures for Recovering Costs of National Administration for Sound Management of Chemicals* (*LIRA-Guidance*) (2015).

to improve solid waste management, which was implemented first in 2014 in Bo, the country's second-largest city, then in Makeni. The project closed two years early, in 2016, when the activities were subsumed under a water, environment, sanitation and hygiene project.[10] As a result of this initiative, it is reported that the Bo and Makeni City Councils closed down a number of illegal dump sites in their municipalities. Given the economic and development situation of Sierra Leone, the Special Rapporteur acknowledges that many recommendations in the present report would strongly benefit from close and continued technical and financial support from the international community, particularly from home States of foreign business enterprises operating in Sierra Leone.

17. The Special Rapporteur feels obliged to note that while financial resources can advance protections from exposure to toxics, corruption poses a major challenge to utilizing these resources as intended.[11] While acknowledging that Sierra Leone has made some progress in combating corruption,[12] for example, by establishing and supporting its Anti-Corruption Commission, the Special Rapporteur notes that the problem persists.

18. Financial audits support the Government's effort to identify areas of improvement in cases where further reforms need to be implemented to ensure that public funds are used for their intended purposes. For example, in 2016, a government audit indicated that among other cash losses in the Government, the Ministry of Lands, Country Planning and the Environment had an estimated unaccounted revenue of 980,040,500 leones ($127,000). Furthermore, while there was a policy that 20 per cent of all fees collected for environmental impact assessment licences should be used for monitoring activities, the accounting records of the Environment Protection Agency showed that those revenues were not used exclusively for monitoring.[13] Sierra Leone should prioritize not only identifying gaps in public finance losses but also implementing legal and administrative measures to recoup funds, in this case to better finance the chemical and waste governance frameworks.

19. Business enterprises worldwide continue to gain profit at the expense of human beings; there have been instances in which victims of exposure to toxic chemicals resulting from highly profitable agriculture and mining activities have gone without compensation, financial or otherwise. Concerns about corruption have arisen in relation to allegations of conflict of interest regarding taxes and tax avoidance, resulting in situations where the costs of economic development are borne by the community while the benefits are claimed by the powerful elite. For example, residents from the Kono District complained of a lack of transparency and justice in the distribution of financial resources generated by the mining of diamonds on their land. In 2015, lawyers representing the mayor of Koidu city alleged in court that Koidu Limited had dodged local property taxes. Koidu maintained that it was exempt from taxes but that it was committed to its corporate social responsibilities. In 2016, the central Government suspended Mayor Lamina from office in what was allegedly a politically motivated act linked to his attempt to challenge Koidu. The High Court ruled that Koidu Limited and OCTÉA, Koidu's parent company, were separate entities and that OCTEA was therefore not technically the mine's owner and had no duty to pay property tax.

20. The Special Rapporteur is fully aware that the fight against corruption is a long-term process and that patience and persistence are crucial for producing results. At the same time, he warns that corrupt practices are threatening the governance framework on chemicals management, environmental protection and waste management and that the failure to address this may result in the most vulnerable, including the local community, having to pay for the adverse effects of such projects through loss of life, health and well-being. The Special Rapporteur therefore urges the Government to step up anti-corruption efforts in not only the mining sector but all areas of the private sector, especially those involving public and private entities. Implementing measures to address corruption would be an essential

[10] See https://devtracker.dfid.gov.uk/projects/GB-1-203636.

[11] World Bank, "Combating corruption", updated 4 October 2018; Sierra Leone, *Governance and Corruption Study* (2003). Available at http://siteresources.worldbank.org/INTANTICORRUPTION/Resources/383901-1317672198081/sl_gacreport.pdf.

[12] Anti-Corruption Commission, "The initiatives and practices of Sierra Leone's preventive anticorruption bodies as per article 6 of the UNCAC", 2014.

[13] Annual report of the Auditor General on the accounts of Sierra Leone 2016.

step towards recouping costs from industry for chemicals management and environmental protection and ensuring a more robust waste management system. Strong anti-corruption measures must accompany cost-recovery systems and other financial measures to ensure that resources are efficiently and appropriately allocated to protect the public against exposure to toxics.

C. Legislation and regulation

21. All States are duty-bound to establish legislative and regulatory frameworks to protect human rights from infringement as a result of the mismanagement of toxic chemicals and wastes. The failure to enact or enforce laws necessary to prevent the adverse impacts of hazardous substances on, inter alia, the rights to life, to health and to the integrity of the person is a violation of a State's obligations (see also A/HRC/36/41, para. 56). Sierra Leone is no exception to the global discrepancy between the standards of protection required to uphold human rights and the standards of protection established under legislation.

22. The Constitution of Sierra Leone reflects some critical human rights obligations. Although recognized as public policy goals in chapter II of the Constitution, economic, social and cultural rights do not enjoy the same constitutional protection afforded to civil and political rights at the national level. The Special Rapporteur is convinced that establishing constitutional rights and legislation of direct relevance to toxics would be a step in the right direction for the country. Discussions on the need to revise the Constitution have been ongoing since the end of the civil war. In 2013, a constitutional review committee was established, and it concluded its work with the publication of a final report in 2016.[14] In December 2017, the Government rejected 102 of the 138 recommendations made by the committee, including the recommendation concerning the recognition of economic and social rights in chapter II of the main law of the country. The Special Rapporteur believes that enhancing constitutional protection of economic, social and cultural rights would expand the possibilities of national courts to enforce some of the human rights most commonly affected by exposure to hazardous substances and wastes, such as the rights to health, food, safe drinking water and sanitation and a safe, clean, healthy and sustainable environment.

23. The Special Rapporteur encourages the Government to further the constitutional review in an inclusive manner in order to fulfil the obligation of Sierra Leone to protect human rights by promoting effective compliance and enforcement of laws. This goal could be achieved by revisiting key recommendations from the 2013 constitutional review, including the particular recommendation to make justiciable the fundamental principles of State policy as set out in chapter II of the Constitution by recognizing, at the national level, the rights to health, housing, water and sanitation, a healthy environment and gender equality, and the rights of children, the elderly and persons with disabilities. Those recommendations also included a provision for collective bargaining and security of tenure of union members, which would contribute to the democratization of trade unions. Abandoning recommendations related to labour and the rights of workers has cemented the current position whereby workers' rights are not adequately catered for in the Constitution. Sierra Leone is encouraged to recognize those rights at the constitutional level in order to advance efforts to promote the protection of workers, particularly in the context of exposure to hazardous substances and wastes. This would need to be supported by constitutional provisions for safeguards regarding the health, safety and welfare of all persons in employment, in particular working women with children, and a provision for adequate medical and health facilities for all persons, including workers.

24. The Special Rapporteur notes that various legal instruments to protect against exposure to hazardous substances and wastes in Sierra Leone were either in the process of

[14] Sierra Leone, *Report of the Constitutional Review Committee* (2016). Available at www.democracy.gov.sl/images/reports/REPORT%20OF%20THE%20CONSTITUTIONAL%20REVIEW%20COMMITTEE.pdf.

being developed or under review during his visit. He is convinced that addressing gaps in the national legal and policy framework would improve human rights protection in the country and encourages authorities to keep the momentum of drafting and adopting corresponding legal standards.

25. The main legal instrument governing the environmental protection sphere is the Environment Protection Agency Act, 2008. Human rights concerns related to exposure to hazardous substances and wastes, especially in the agriculture and mining sector, may be addressed through compliance mechanisms, including environmental impact assessments.[15] Following approval of an assessment prepared by the applicant, a licence is issued by the Environment Protection Agency. Some gaps have been reported in the licensing procedures, which are discussed in relation to monitoring in paragraph 42.

26. The Special Rapporteur encourages Sierra Leone to fulfil its obligations to protect health, safety and life by establishing and implementing an appropriate regulatory regime on pesticides, as well as adequate compliance and enforcement systems. Without these mechanisms in place, the main burden of the negative effects of pesticides is felt by workers, children and other vulnerable members of the community (see A/HRC/34/48, para. 70).

27. To reduce the dangers of hazardous pesticide use, which the Government acknowledges is a problem regarding food and water contamination, several policies, laws and guidelines are pending in a draft or review process and awaiting adoption.[16] The Special Rapporteur was informed that an inventory of pesticides had been conducted in 2008 and was being updated at the time of his visit. A list of banned pesticides was prepared in 2010. At present, the ban is limited to pesticides referred to in the Stockholm Convention.

28. Concerns about the mining sector are raised in the context of the existing legal and institutional framework. In 2007, a review of all mining agreements in the country was carried out by authorities and the normative framework was reformed. Mining activities are currently regulated in Sierra Leone by the Mines and Minerals Act, 2009, which is supplemented by the Environment Protection (Mines and Minerals) Regulations, 2013, and the Mines and Minerals Operational Regulations, 2013.

29. The Government has developed policy initiatives aimed at promoting sustainable waste management, including the Integrated National Waste Management Policy and the Integrated National Waste Management Strategic Plan, 2012–2016. In 2014, the National Policy Road Map on Integrated Waste Management for 2015 and beyond was also launched.

30. Significant gaps exist in the normative framework regarding labour despite periodic efforts to take into account developments in international human rights law.[17] For example, the main employment laws in place do not make specific reference to the right of all persons to work in safe and healthy conditions.

31. The Environment Protection Agency is the primary authority on human rights protection in the context of exposure to hazardous substances and wastes in Sierra Leone. The agency is mandated to coordinate, monitor and evaluate the implementation of national environmental policies, including issuing and monitoring compliance with the terms and conditions of environmental impact assessment licences, as well as ensuring enforcement in cases of non-compliance. The Ministry of Health and Sanitation is the main authority monitoring the direct impact of hazardous substances on human health. The National Minerals Agency, established in 2012, is responsible for the enforcement of the Mines and Minerals Act, 2009, and the implementation of policies formulated by the Ministry of Mines and Mineral Resources. A Minerals Advisory Board, an interministerial committee

[15] Section 131 of the Mines and Minerals Act, 2009, stipulates the requirement for both small- and large-scale mining projects to obtain an environmental impact assessment licence.

[16] A draft phytosanitary and pest control act, updating the Phytosanitary and Plant Import Act, 1974; a draft food bill and a food safety bill; draft regulations on toxic and hazardous substances; guidelines for sustainable agriculture; and a national integrated pesticides management policy.

[17] For example, the ILO Declaration on Fundamental Principles and Rights at Work, para. 2.

responsible mainly for recommendations on mineral policies, was established in 1994. In agriculture, the lead authority is the Ministry of Agriculture, Forestry and Food Security, which, together with the Ministry of Trade and Industry, has introduced plans to establish a crop protection unit within the Ministry of Agriculture mandated to manage pesticides, as well as all other issues related to agrochemicals.[18] At the time of writing, the unit had not yet been established.

32. The waste management sector presents a clear example of the multiplicity of government agencies involved and the lack of coordination of oversight and compliance mechanisms. For instance, the Ministry of Health and Sanitation is responsible for policy issues relating to solid waste, the Environment Protection Agency controls waste management facilities and deals with e-waste and hazardous waste, the Ministry of Local Government and Rural Development is responsible for municipal solid waste services in general and the city councils are in charge of such services in their respective areas, for example, the Freetown City Council is responsible for solid waste management services in Freetown. In an attempt to promote inter-agency collaboration, a proposal was made in the National Policy Road Map on Integrated Waste Management to establish a National Waste Management Working Group, led by the Ministry of Health and Sanitation and the Environment Protection Agency, in order to improve coordination and regulation efforts.

33. The Special Rapporteur notes that further efforts are needed to develop a harmonized system to address the overlapping roles and responsibilities of government agencies and the various elements of the institutional framework on issues related to hazardous substances and wastes. Efforts should be pursued to establish effective governance structures and practices that are needed to ensure clear decision-making authority, clarity of roles, responsibilities and relationships between institutional actors and public accountability. While institutional capacity-building is necessary and needs to be a continuous process, coordination must be improved to strengthen efficiency and transparency. Clarity and coherence in the allocation of mandates among public bodies is a key to efficiency and cost-effectiveness. Clear legal mandates lay the foundation for the overall organization of institutional arrangements, while the provision of adequate powers and resources to the responsible authorities ensures their ability to fulfil their mandates.[19]

34. One approach for optimizing the allocation of mandates to public bodies would be to concentrate them among fewer public agencies. This would mean identifying areas of duplication, gaps or cases where there is a lack of clarity of responsibility and exploring opportunities for improved synergies. A careful assessment of the advantages and drawbacks of different approaches (including costs and benefits) to harmonizing the regulatory system, especially in relation to chemicals and wastes, is highly advisable in the context of existing governance mechanisms in Sierra Leone.[20]

D. Monitoring

35. In order to protect human rights affected by toxics, States are duty-bound to generate, collect, assess and update information; effectively communicate such information, particularly to those disproportionately at risk of adverse impacts; ensure that confidentiality claims are legitimate; and engage in international cooperation to ensure that foreign Governments have the information necessary to protect the rights of people in their territories (see also A/HRC/30/40, para. 99). The Special Rapporteur observes that in this area as well, Sierra Leone has considerable room for improvement, especially regarding issues of transparency, access to information and meaningful participation of affected communities in the realization of large-scale projects.

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[18] World Trade Organization, "Trade policy review: Sierra Leone", WT/TPR/S/303/Rev.1; see also Ministry of Agriculture, Forestry and Food Security, *Smallholder Commercialization and Agribusiness Development Project (SCADEP): Final Report*, 2015. Establishment is envisioned under the draft phytosanitary and pest control act.

[19] See UNEP, *LIRA-Guidance*.

[20] Ibid.

36. The enjoyment of the right to information in the context of toxics is crucial in order to prevent adverse impacts, ensure freedom of expression and enable individuals and communities to participate in decision-making processes and seek and obtain remedy (see also A/HRC/36/41, para. 20).

37. Sierra Leone adopted the Right to Access Information Act, 2013, for the disclosure of information held by public authorities or by persons providing services for them. While this is a welcome development, efforts for the timely dissemination of information on the development and implementation of extractive industry projects should be reinforced. A 2014 study, entitled *Sierra Leone: Justice Sector and the Rule of Law*, indicated that only about 30 per cent of people in Sierra Leone were informed of their rights, and the rate was even lower in poor and rural communities. Existing legislation should be expanded to ensure that those affected by mining projects are fully informed of the mining activities and resulting consequences. Transparency is important to mitigate the risk of corruption, environmental damage and abuses against impoverished communities.

38. The right to information is crucial for the realization of the right to participation. State and business enterprises should ensure that communities are provided with adequate information on extractive activities occurring in their area of residence and on the potential impacts of these operations. Unfortunately, this does not seem to be a widespread practice in Sierra Leone. Several affected communities informed the Special Rapporteur that their views were not being sufficiently taken into account; information, particularly on health impacts, was unavailable, inaccurate or too technical; and processes for gathering information were not reasonably accessible (see also A/HRC/36/41, para. 23). Communities neighbouring large-scale mining projects should be consulted during the preparation of social and environmental risk assessments and should also receive the completed evaluations. Authorities should proactively make information accessible to affected communities and organize local spaces for information-sharing. In addition, business enterprises should work with local leaders to create grievance mechanisms.

39. The State should improve upon the quantity and quality of medical information gathered on affected populations to better ensure adequate health monitoring and record-keeping. This information is crucial for establishing or excluding correlations between mining activities and reported health outcomes. The Special Rapporteur recommends that the Government prioritize data collection and the analysis of health indicators.

40. National human rights institutions can play a key role in monitoring human rights and disseminating information. When provided with the necessary funds and autonomy to work (see also A/HRC/25/55), such institutions can ensure that communities are involved in decision-making processes. The Human Rights Commission of Sierra Leone, established in 2004, was accredited in 2011 with "A" status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, based in Geneva. The Human Rights Commission has a mandate to promote and protect human rights in the country, including through monitoring and investigative activities. The Special Rapporteur was informed of awareness-raising activities undertaken by the Commission, such as the development of the *Guidelines for Monitoring Business and Human Rights in Sierra Leone*. He was also informed that at the time of the visit the Commission was considering publishing an annual report devoted to business-related human rights issues.

41. The Human Rights Commission of Sierra Leone has performed commendable work in promoting human rights. However, civil society organizations and residents in communities visited by the Special Rapporteur noted the need for the Commission to further develop its capacity and independence by securing cooperation from business enterprises in human rights monitoring. Thus, the Special Rapporteur echoes the recommendations made by the Human Rights Committee in 2014 (CCPR/C/SLE/CO/1), as well as those made in the context of the 2016 universal periodic review (A/HRC/32/16), encouraging the Government to ensure adequate resourcing for and the full independence of the Commission.

42. The Special Rapporteur notes that more robust data are required than the data currently provided under approval and monitoring procedures to ascertain the safety

situation of workers, communities and the environment. For example, while business enterprises need to disclose in their quarterly reports to the Environment Protection Agency the pesticides that they use, the Agency informed the Special Rapporteur of the challenges it faced in analysing and testing pesticides. One of the applications for an environmental impact assessment licence examined by the Special Rapporteur in relation to Socfin's large-scale palm oil plantation failed to include an accurate list of pesticides and other agrochemicals envisaged to be used on the plantation and did not provide exhaustive information on several other key processes that could pose risks to human health and the environment, including the handling, transportation, application, storage and disposal of pesticides.[21] This lack of detail fundamentally thwarts the ability of the Agency to perform its duties under human rights law and fails to respect the rights of workers and local communities to information, participation and remedy. Despite those concerns, Socfin received its licence. The Special Rapporteur urges State authorities, including the Agency, to review the requirements for obtaining an environmental impact assessment licence according to the different sectors of the economy for which such a licence is sought, in order to take into consideration social aspects of projects, including the health impacts of exposure to toxics as a result of the applicant's activities.

43. Improved capacity for monitoring the use and assessing the impact of chemicals in agriculture and other economic activities may mitigate challenges with respect to regulations and the institutional framework. In the absence of a public laboratory facility for the monitoring of pesticide residues in food, water and the environment, the level of pesticide use in the country has not been fully studied and therefore is highly likely to be underestimated. Estimates are based on limited information on government supplies and the economic status of the farmers.[22]

E. Judicial system and enforcement

44. States and other duty bearers must be answerable to rights holders for the observance of human rights associated with the management of toxics. In this regard, all countries are expected to comply with the legal norms and standards enshrined in international human rights instruments. Every rights holder is entitled to initiate proceedings for appropriate redress before a competent court or other adjudicator, in accordance with the rules and procedures provided by law. States must ensure access to justice and provide effective remedies and restitution to victims of violations occurring as a result of exposure to hazardous chemicals (see also A/HRC/36/41, para. 17).

45. Most victims of toxics have no access to justice, nor are they aware of effective remedies, and most perpetrators of violations relating to toxics are not held accountable. The burden of proving the cause of illness, the lack of information, the insurmountable costs of judicial remedy, corporate structures, global and devolved supply chains and other factors obstruct the path to justice and remedy for most victims (ibid., para. 18). The Special Rapporteur notes in particular that in Sierra Leone no cases dealing specifically with pollution, contamination and exposure to hazardous substances and wastes have been brought by victims to the courts.

46. The Special Rapporteur welcomes the establishment of the Legal Aid Board in 2012 to provide legal aid services to indigent persons, as well as the Judicial and Legal Training Institute to ensure legal education within the justice sector. He recommends that the Government, together with the Human Rights Commission of Sierra Leone and civil society, carry out education and information campaigns to increase awareness of existing remedies and ways to use them. The Special Rapporteur wishes to stress that while access

[21] Joan Baxter, *Who is Benefitting? The Social and Economic Impact of Three Large-Scale Land Investments in Sierra Leone: A Cost-Benefit Analysis* (Action for Large-scale Land Acquisition Transparency, July 2013).

[22] Sankoh Alhaji Ibrahim, "An assessment of pesticide use, contamination and impact on the environment and the health of people in Sierra Leone", PhD thesis, Lancaster University, September 2016.

to remedies entails improving access to judicial and adjudicatory mechanisms, effective remedies are also required.

47. The Special Rapporteur takes note of the Environment Protection Agency's informal role in receiving and addressing people's complaints on matters relating to the environment. He encourages the Agency to create a dedicated complaint desk. While this should not be seen as a substitute for access to judicial proceedings, including appropriate remedies and redress, the act of establishing participatory procedures for grievances and related dispute resolution systems, such as the Agency's informal procedures mentioned above, can serve as an early warning and prevention mechanism.

48. Achieving the right to an adequate remedy for victims of exposure to hazardous substances and wastes in Sierra Leone is extremely challenging for a number of reasons, including financial barriers and a lack of confidence in the justice system. The Government recognizes that the justice sector suffers from significant deficiencies; in this regard, it is acknowledged in the Agenda for Prosperity that growth and development will not be achieved without enhanced access to justice and the rule of law.

49. In the context of hazardous substances and wastes, adverse impacts on human rights may include implications for the rights to life, health, food, water and adequate housing. Violations are often interrelated and entrenched in patterns of exclusion, marginalization and unequal power relationships. Beyond ensuring remedies for individual violations, the Government is encouraged to increase its efforts to identify those patterns and address their structural causes in policymaking and budgeting.

50. The Special Rapporteur was informed of the efforts by one company, Socfin, to participate in the establishment of a grievance committee, chaired by a paramount chief, to channel grievances and submit and discuss allegations and issues of concern. A community liaison team was also in place to facilitate communication and dialogue with local communities. While initiatives such as the grievance committee can help to provide a space for discussion, the Special Rapporteur observes that they cannot serve as replacements for justice mechanisms, considering the complex representation of forces within each community.

51. There is a widely recognized global crisis facing environmental human rights defenders (see also A/HRC/36/41, para. 78). In Sierra Leone, concerns have emerged regarding judicial harassment of community leaders opposing large-scale economic projects. In 2015,[23] a group of Special Rapporteurs addressed a communication to the Government of Sierra Leone on allegations received concerning the arbitrary arrest and trial of activists belonging to the Malen Land Owners and Users Association who accused Socfin of land-grabbing. Six activists of the Association were charged with destruction of growing plants, conspiracy and incitement. In 2016, all were found guilty and sentenced to pay a fine or face detention. The Government regrettably did not respond to the communication. The sentencing and arbitrary detention of community leaders questioning land-lease agreements is especially concerning, as it seems to be directly related to the legitimate attempts of residents to seek justice while challenging the arrangements between business enterprises and a local chief. This sort of harassment would be incompatible with the country's recognized human rights obligations and would also contradict the Government's stated commitments to ensuring that economic investments are promoted while paying full attention to the rights of the most vulnerable communities.

52. Concerns have also emerged with regard to the intimidation of non-governmental organizations (NGOs) reporting on allegations of human rights violations. In 2013, Socfin filed a defamation case in Sierra Leone[24] against Green Scenery (Sierra Leone) and Oakland Institute (United States of America),[25] organizations that were reporting on alleged

[23] See https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=21201.

[24] See www.fian.be/IMG/pdf/writ_of_summon.pdf.

[25] Green Scenery and others, "End intimidation around Sierra Leone oil palm project", media release, 3 June 2013.

abuses, including inadequate compensation, corruption and pressure on landowners and chiefs to sign agreements to give up their land to Socfin. In addition, the Bolloré Group, a major shareholder in Socfin, filed a defamation suit in France against journalists with the Bastamag news agency for a 2012 report[26] accusing Bolloré of human rights abuses, including land-grabbing in Sierra Leone. The defamation claims were rejected by French courts in 2016. Filing defamation cases against NGOs and journalists carrying out their vital work of reporting on what they consider to be abuses in land-leasing deals between authorities and business enterprises is incongruent with the responsibility of business enterprises to respect human rights.

53. The Special Rapporteur underlines that while access to legal remedy may be the foremost concern, authorities should also ensure that appropriate medical treatment is available to those in need.

54. The Special Rapporteur recalls that, in case of adverse impacts on human rights resulting in irremediable harm (such as irreversible health effects or biodiversity loss), business enterprises should take proactive measures to prevent or mitigate such harm (see also A/72/162, para. 70). Where such harm has already occurred, the need for business enterprises to be held accountable for their activities must be highlighted. For example, while acknowledging that OCTÉA ended surface mining activities in 2016, the Special Rapporteur stresses the importance of addressing and remedying any adverse impacts that may be related to the company's operations until that date, as appropriate.

55. Problems with land tenure and concessions for large-scale investments in mining and agriculture are widely recognized by multiple stakeholders. Power imbalances between investors and affected communities can often escalate into violence, with serious negative repercussions for rural communities living in poverty. In this context, improving access to remedies for those claiming compensation should be prioritized. For example, questions concerning the fairness of agreements between business enterprises and local leaders have arisen in the past in relation to large-scale agriculture projects. Often, the local community accuses business enterprises of land-grabbing, leading to conflict between the parties.

56. Lack of access to justice and remedies seems to be at the root of the deterioration of conflict situations arising from large-scale economic projects in Sierra Leone. In the extractive projects studied during the Special Rapporteur's visit, tensions between local communities and business enterprises had sometimes deteriorated into protests, with allegations of police violence and intimidation against community members. In 2007 and 2012, workers and local residents reportedly protested against the working conditions in the diamond mines and against the environmental impact. Twice, police officers violently repressed the protests, reportedly killing two protesters in 2007 and two more in 2012, including a 12-year-old boy.

57. Sierra Leone has an obligation to protect people from recurring episodes of violence. The Government has a clear international human rights obligation to guarantee the security of residents voicing their discontent and is also obliged to thoroughly investigate such episodes, identifying those responsible for the violence. An investigation was reportedly launched by the Human Rights Commission of Sierra Leone on those violent events, but no report was made public. The Special Rapporteur commends the Commission for having assumed responsibility for its failure to publish the report in a timely manner but reminds the Commission of the necessity to avoid any further delay.

58. The Special Rapporteur notes that tensions accompanying large-scale economic projects indicate challenges with ensuring adequate channels for local groups to be fully informed of and consulted on extractive activities and point to an absence of access to justice mechanisms whenever conflict emerges. Strengthening participation processes and establishing grievance committees may contribute as alternative tools for redress or remedy to garner respect and interest from the local community. Continued episodes of violence in large-scale agriculture and mining projects may be avoided by addressing the apparent

[26] Nadia Djabali, « Bolloré, Crédit agricole, Louis Dreyfus : ces groupes français, champions de l'accaparement de terres », *Basta !*, 10 October 2012.

isolation of the affected communities living in poverty, giving systematic attention to their needs and enhancing the various paths to achieve access to justice.

IV. Sector-specific concerns

A. Extractive industries

59. Sierra Leone has vast reserves of diamonds, rutile, bauxite, gold, iron and limonite and counts on the export earnings of those minerals to support its economic growth. In 2012 alone, exports reportedly increased by 147.3 per cent owing to the resumption of iron ore production and exports by two iron ore mining business enterprises. In 2016, minerals accounted for more than 70 per cent of the country's exports.[27] In 2017, a weak recovery of iron ore production contributed to a 2 per cent slowdown in economic growth, and increased private sector investment in mining was identified as one of the factors contributing to a 5 per cent projected rise in economic growth in 2018.[28] Yet, it is recognized in the Agenda for Prosperity that without appropriate regulation and oversight, mining can result in numerous harmful consequences.

60. Mining in Sierra Leone has often been considered to be one of the factors contributing to political instability and is often cited as one of the reasons for the country's recent civil war. Disputes over the way in which mining activities were initiated and, in particular, the distribution of mineral revenues have historically resulted in tensions. Limited resources create additional obstacles to conducting precise assessments of the environmental impact of past, present and future mining initiatives.[29]

61. Large-scale mining is an important part of the mining sector in Sierra Leone; business enterprises are therefore key stakeholders, with the responsibility to respect human rights. Concerns over limited oversight and support for artisanal mining were raised, especially considering the relevance of this practice for those living in poverty. Estimates indicate that nearly 38 per cent of diamond exports were mined in artisanal mines. A recent study highlighted that a lack of support for ensuring that those activities are sustainable could lead to environmental damage, which, in the future, would practically nullify the potential economic benefits to the communities engaged in artisanal mining. Artisanal miners informed the Special Rapporteur that limited understanding of and capacity to act on environmental issues, limited accountability for any damage caused and limited capacity for the promotion of land rehabilitation were among their top concerns.[30]

62. Communities reported adverse health impacts potentially associated with exposure to hazardous substances and wastes from mining activities, including cases of fever as a result of breathing blast-generated dust as well as skin, vision and hearing problems, often compounded by inadequate medical attention; individuals suffering from such conditions are allegedly routinely treated for malaria. Cases of waterborne diseases have reportedly also increased. Air and water pollution contribute to poor health outcomes,[31] and this is especially a concern for the mining sector. The availability of safe water and sanitation also remains problematic. Heavy noise pollution, associated with both blasts and other sources of noise, such as heavy processing plants and machinery, remains a concern.

63. Community development agreements are required for the approval of mining projects and are important for consultations with and the participation of communities

[27] Economic Commission for Africa, *Country Profile 2017: Sierra Leone* (Addis Ababa, 2018).

[28] World Bank, *Macro Poverty Outlook for Sub-Saharan Africa: Country-by-Country Analysis and Projections for the Developing World, Annual Meetings 2018*.

[29] Fenda A. Akiwumi and David R. Butler, "Mining and environmental change in Sierra Leone, West Africa: a remote sensing and hydrogeomorphological study", *Environmental Monitoring and Assessment*, vol. 142, Nos. 1–3 (July 2008).

[30] Rachel Lichte, "Artisanal diamond mining in Sierra Leone: social impacts, environmental awareness and opportunities for change", Master's project, Duke University, 2014.

[31] WHO, *Country Cooperation Strategy 2017–2021*.

neighbouring mining projects. Furthermore, such agreements advance the right to free, prior and informed consent.[32] Despite established requirements for environmental impact assessments and for the promotion of community development agreements through consultations with affected groups, the licensing process in Sierra Leone could be improved. There appear to be inadequate guarantees of meaningfulness and fairness in the process for establishing community development agreements. The responsibility for concluding such agreements rests primarily with those who hold or aim to hold small- or large-scale mining licences. In such scenarios, consultations with affected communities may be inadequate, as the agreements appear to be based on arrangements made between the business enterprise and local chiefs. This is especially problematic considering the political and economic power imbalances between business enterprises interested in developing mining projects and the communities that live with the consequences of the projects. Clearer requirements for the agreements should be established to ensure that consultations with the affected communities are meaningful. This concern is amplified by existing limitations on access to justice for those living in areas affected by extractive projects. Another challenge is that the process of concluding such agreements does not appear to involve external expert bodies with technical expertise on the social, cultural and economic implications of projects.

64. Multiple reported human rights violations, relating predominantly to inadequate consultations with and participation of communities, have been attributed to big mining projects in Sierra Leone. If the affected communities are fully informed and meaningfully consulted before the start of large projects, challenges may be addressed. However, without access to justice, residents affected by large projects or victimized by the police have no chance of accessing remedies.

B. Oil palm farming and other agricultural activities

65. Agriculture is considered the backbone of the Sierra Leone economy. In 2015, agriculture, including forestry, fishing and hunting, accounted for 61.3 per cent of the country's gross domestic product, according to *African Economic Outlook 2017*. The National Sustainable Agriculture Development Plan 2010–2030 provides the main public policy vision.[33] It focuses mostly on the creation of an enabling environment for investment in agriculture and the need to improve policy coordination and revise the regulatory framework. Oil palm is one of the tree crops with major economic importance in Sierra Leone.[34]

66. The agriculture sector faces challenges relating to oversight of the use of agrochemicals, the impact of chemicals on agricultural workers and nearby communities and the potential contamination of food and water sources.

67. A study on the use of pesticides on rice crops in Sierra Leone yielded troubling results illustrating the risks of unregulated use of chemicals in agriculture.[35] Interviews with some 500 rice farmers indicated that a wide range of pesticides were in use, including some internationally banned pesticides, such as parathion. The most commonly used pesticides included chlorpyrifos (60 per cent), carbofuran (20 per cent), malathion (5 per cent) and carbolineum (5 per cent). It was indicated in the study that 46 per cent of the pesticides in use entered the country by irregular means. It was further noted that since the majority of rice farmers surveyed were poor, they could not afford to buy pesticides from legal vendors.

[32] See section 139 of the Mines and Minerals Act, 2009; community development agreements should be funded from no less than 1 per cent of a company's gross revenue obtained the year before the agreement is signed. However, the figure remained unconfirmed during the mission, as no interlocutor with the Special Rapporteur, including representatives of the Ministry of Mines and Mineral Resources and the National Minerals Agency, was in a position to clarify it.

[33] See also Margaret Akinyi Wagah, "Nutrition impact of agriculture and food systems: Sierra Leone", country policy analysis (Geneva, United Nations Standing Committee on Nutrition, 2013).

[34] FAO, "Continental programme on post-harvest losses reduction: rapid country needs assessment: Sierra Leone", working paper (Rome, 2011).

[35] Sankoh and others, "An assessment of the impacts of pesticide use on the environment and health of rice farmers in Sierra Leone", *Environment International*, vol. 94 (September 2016).

Seventy-one per cent of the respondents had not received any training on the safe use of pesticides. It was also confirmed that storage of the chemicals was inadequate and that 90 per cent of workers used no personal protection when applying pesticides. Pollution of adjacent waterbodies and accumulation of pesticides in soil and sediment were probable results of the continuous uncontrolled use of pesticides. Finally, it was concluded that cases of skin problems, nausea, seizures, respiratory disorders, blurred vision, loss of appetite, lachrymation and nervous disorders were significantly higher among farmers who used pesticides than among those who did not. Yet it was underscored that it was not possible to determine whether farmers were experiencing chronic effects of pesticide poisoning because of the lack of monitoring of health effects.

68. Close monitoring of the use of pesticides in agriculture is essential in order to minimize the exposure of workers, their families and nearby communities, as well as to mitigate associated health risks.[36] Continued use by agricultural workers of higher amounts of pesticides and other pollutants and the proximity of their homes to their worksite mean that they may be exposed to environmental and health hazards (see A/HRC/20/15). In rural communities, the Special Rapporteur heard complaints of contamination potentially related to the activities of business enterprises engaged in large-scale oil palm farming. He was also informed of the inadequacy of protective clothing and training to prevent exposure to pesticides. The Special Rapporteur was informed of the existence of training for workers to raise awareness of different chemicals, including pesticides used on plantations, as well as of the use of sprays by handlers and applicators.

69. The Special Rapporteur points out that, in some situations, the Government seems to have adopted contradictory policies to stimulate the purchase of toxic products in order to boost economic activity, despite limited resources and capacity for their management. For example, section 49 of the Finance Act, 2013, provided for a five-year window for the duty-free import of "agriculture inputs", including pesticides and fertilizers. The activities listed in the National Food and Nutrition Security Implementation Plan 2013–2017 to improve the production of vegetables include facilitating the acquisition by communities of production packages, including fertilizers, agrochemicals and pesticides. Those incentives leave considerable room for concern considering the critical gaps that exist in ensuring the safe use of such dangerous chemicals.

70. The formulation of proper disposal methods for obsolete pesticides and public awareness of ways in which to handle them are needed in Sierra Leone. The Special Rapporteur was informed that empty pesticide containers were often used for the storage of water and food, among other purposes. State commitment to the right to information and safeguarding the availability, accessibility and consistency of such information would increase awareness of the potential risks and the preventive measures to be adopted by those using agrochemicals.

C. Chemicals and waste management

71. Rapid urbanization and challenges with resource management in Sierra Leone appear to contribute to the prevalence of waste management concerns.[37] Solid waste in particular poses a challenge in urban areas.[38] For example, it is reported that Freetown alone generates an estimated 600 tons of solid waste daily, including household, medical, hazardous and toxic waste.[39] The Special Rapporteur underscores the potential impact of this waste, especially hazardous and toxic waste, on health and the environment.

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[36] Ibid.

[37] World Bank, *Sierra Leone: Rapid Damage and Loss Assessment of August 14th, 2017 Landslides and Floods in the Western Area* (Washington, D.C., 2017).

[38] Foday Pinka Sankoh and Xiangbin Yan, "Problems of solid waste management in developing urban cities: a case study of Freetown, Sierra Leone", *American Journal of Environmental Protection*, vol. 2, No. 5 (October 2013).

[39] UNICEF, "Annual report 2014: Sierra Leone".

72. The increasing emphasis on country-driven programmatic approaches to economic and social development provides a strong rationale for the integration of priorities regarding the sound management of chemicals into national development planning processes. The ultimate goal of sound chemical management is to minimize the negative effects of chemicals on health and the environment and to fully benefit from the positive impacts of their use where necessary.[40] It is of particular concern to the Special Rapporteur that the Sierra Leone development agenda does not include chemicals and waste as a priority area.

73. Waste minimization is a more advisable way for national and subnational governments to limit the introduction of waste into the environment and reduce the cost of waste disposal, recovery and treatment.[41] Thus far, the focus of Sierra Leone has been on waste collection. During discussions with the Special Rapporteur, public officials acknowledged that waste management was one of the greatest environmental, health and social challenges faced by Sierra Leone. There remains a need to further consider a shift of focus to waste minimization in order to mitigate the risks of exposure to toxic wastes.

74. The Freetown City Council has in place a collection system that handles approximately 473.15 tons of waste per day, but almost 127 tons remain uncollected.[42] Less than 50 per cent of the total waste output of Freetown reaches the two major dump sites in the capital area, at Granville Brook and at Kingtom.[43] The country's waste management framework still presents serious challenges. If left unaddressed, these challenges will threaten human rights through exposure to wastes, which will have a negative impact on the health and livelihoods of the people.

75. Pressure on the waste management system in Freetown has resulted in significant dumping of wastes, and the resulting pollution in the city poses a risk to health and the environment. Insufficient capacity for and inadequate organization of waste management in Sierra Leone often lead to the processing of waste in neighbouring countries. For instance, broken glass is transported to Cameroon, and used oil is sent to Ghana. The Special Rapporteur notes that the Government has conducted advocacy activities to sensitize stakeholders on the impacts of improper waste management. Regarding the use of plastics, the Environment Protection Agency has engaged businesses and encourages the formation of public-private partnerships to improve investment in and the infrastructure for recycling.

76. Insufficient capacity for waste management affects economic activities and not only limits economic growth, but also contributes to toxic chemical exposure. In a 2014 environmental assessment of the Granville Brook and Kingtom dump sites, the Ministry of Lands, Country Planning and the Environment and the Freetown City Council acknowledged the need to strengthen the legal and institutional framework for solid waste management in Sierra Leone and provided examples of the health and environmental risks for people living both in and near the dump sites.[44] These risks ranged from exposure to waterborne and other infectious diseases to contamination of air, soil, streams and the sea, with potential consequences also for the food chain. The Ministry and the Council recommended the closure of the Granville Brook and Kingtom dump sites and relocation of the final waste disposal locations to new landfills to be built and operated according to international standards.

77. Communities living near dump sites face the risk of exposure to high levels of toxics through various routes, especially inhalation, dermal exposure and consumption of food produced at or near the sites. At the dump sites in Freetown, open burning is reportedly used without any sorting mechanism, and people living near the dump sites, including children and pregnant women, inhale smoke and dangerous fumes on a daily basis. Swine farming at or near the dump sites poses a further challenge, as toxins enter the food chain when consumed by pigs, which are then consumed by people, resulting in such toxins

[40] UNEP, *LIRA-Guidance*.

[41] See www.who.int/water_sanitation_health/facilities/waste/module11.pdf.

[42] UNICEF, "Annual report 2014: Sierra Leone".

[43] World Bank, *Sierra Leone: Rapid Damage*.

[44] Freetown City Council, *Environmental Assessment and Evaluation of Natural Disaster Risk and Mitigation in Freetown* (January 2014).

posing a heightened risk to health through bioaccumulation and biomagnification.[45] Of particular concern is the potential cumulative effect of delays in responding to evidence of the negative impacts of improper waste management on human health and the environment.

78. The Special Rapporteur welcomes the Government's support for and openness to evaluations, including the recommendation to close open dump sites, while acknowledging that there is room for improvement in this sphere. He reminds Sierra Leone of its obligation to have both national and subnational governments draft, adopt and implement environmentally sound solid waste management and disposal programmes.

V. Conclusions and recommendations

79. **Sierra Leone has overcome several challenges in recent years and is poised for a considerable expansion of economic sectors. This raises concerns about increasing exposure to toxic substances through contaminated water and food, as well as air pollution. In fact, these issues already exist. During his visit, the Special Rapporteur met with various stakeholders and gathered information on issues pertaining to his mandate. He paid particular attention to ways in which national systems minimize exposure to toxic substances by preventing pollution and managing industrial chemicals, pesticides and waste, and studied specifically the impacts of extractive industries and agricultural activities on human rights.**

80. **The Special Rapporteur is fully aware that the social and economic situation of Sierra Leone and the specific issues faced, including the lack of resources and social vulnerability of large parts of the population, pose additional challenges to achieving higher standards of and consolidating good practices in ensuring human rights associated with the management of hazardous substances and wastes. It is with this understanding of the difficulties faced by the country, its authorities and its population that the Special Rapporteur proposes a number of recommendations, which he hopes could promote improvements in areas related to his mandate. The Special Rapporteur stands ready to assist the country in ensuring any follow-up to and practical implementation of his recommendations.**

81. **In the case of the extractive industry, the Special Rapporteur notes the need for improvements in relation to the degradation of ecosystems, debris accumulation, soil and water contamination, explosions, dust emissions and limited remediation measures.[46] With regard to agriculture, issues include the use of agrochemicals and the need for increased transparency, consultation with local communities and adequate compensation during land acquisition processes.[47] Concerning rapid urbanization, the Special Rapporteur notes serious challenges regarding waste management in Freetown. Addressing the disproportionate impact of mining, agriculture and improper waste management on already marginalized groups, such as women and children, would produce desirable effects on those most at risk and the broader community.**

82. **The Special Rapporteur therefore recommends that the Government:**

(a) **Urgently mobilize financial and technical resources to minimize exposure to hazardous substances through the adoption of cost-recovery systems. In parallel, he urges the Government to strengthen anti-corruption efforts in the entire**

[45] Abubakarr S. Mansaray and others, "Exposure to dioxins and furans at the Bormeh Kingtom dumpsite in the western area of Sierra Leone", *Natural Resources*, vol. 6, No. 9 (September 2015).

[46] Human Rights Watch, "Whose development? Human rights abuses in Sierra Leone's mining boom", 19 February 2014.

[47] Integrated Regional Information Network, "Land deals beginning to stir discontent", 20 March 2012; Mark Tran, "Sierra Leone's smallholder farmers 'worse off' after large land deals", *The Guardian*, 26 July 2013; Genesis Tambang Yengoh and Frederick Ato Armah, "Effects of large-scale acquisition on food insecurity in Sierra Leone", *Sustainability*, vol. 7, No. 7 (2015); Genesis Tambang Yengoh and others, "Factors of vulnerability: how large-scale land acquisitions take advantage of local and national weaknesses in Sierra Leone", *Land Use Policy*, vol. 50 (January 2016).

governance structure for hazardous substances and wastes. He urges the international community, including States and international organizations, to support those efforts through financial and technical assistance;

(b) Consider increases in the budgetary resources directed at minimizing the adverse effects of toxic substances on the enjoyment of human rights by enhancing the private sector's financial and technical participation in meeting the costs of the full implementation and enforcement of national laws concerning chemicals;

(c) Reconsider, in the light of the national elections held in March and April 2018, a meaningful constitutional review with a participatory process in conformity with international human rights obligations. The review should lead to the adoption of international human rights commitments, especially regarding economic, social and cultural rights, at the national level;

(d) Continue to finalize and adopt various pieces of draft legislation currently pending in order to put into effect at the national level the international protections of human rights in the context of exposure to hazardous substances and wastes;

(e) Ensure the timely implementation of laws and policies already in place in the context of exposure to hazardous substances and wastes;

(f) Revise the requirements for obtaining an environmental impact assessment licence according to the different sectors of the economy for which such a licence is sought in order to strengthen information requirements placed on applicants and to take into consideration the social aspects of projects, including the health impacts of exposure to toxic chemicals as a result of the applicant's activities;

(g) Revise legislation on occupational health and safety to ensure conformity with the Constitution of Sierra Leone and commitments under international law;

(h) Revise existing and inadvisable waste management systems and explore new viable solutions to deal with the waste problem in Sierra Leone, in particular, the dump sites in Freetown;

(i) Take further steps towards improving existing government structures, reinforcing inter-agency coordination and cooperation and addressing the overlapping roles and responsibilities of government agencies regarding issues related to hazardous substances and wastes. The allocation of clear legal mandates among public bodies and the provision of adequate powers and resources to the responsible authorities appear to be critical to increasing their ability to fulfil their mandates;

(j) Ensure adequate resourcing for and full independence of the Human Rights Commission of Sierra Leone, in line with recommendations made by the Human Rights Committee in 2014, as well as those made in the context of the universal periodic review in 2016;

(k) Consider the prompt ratification of the Bamako Convention;

(l) Strengthen occupational protections in line with principles proposed by the Special Rapporteur in his report on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (A/HRC/39/48) and consider the prompt ratification of the ILO conventions No. 155, No. 170, No. 174, No. 176, No. 184 and No. 187;

(m) Develop mechanisms to realize the right to information on, meaningful participation in and access to remedies regarding matters pertaining to hazardous substances and wastes, including by:

(i) Adhering, at a minimum, to the standards of the Aarhus Convention;

(ii) Improving the quantity and quality of medical information gathered on affected populations by prioritizing diligent data collection and analysis of health indicators at the national level;

(iii) **Developing policies and guidelines aimed at ensuring that communities living in areas surrounding large-scale mining projects are consulted during the preparation of social and environmental risk assessments and receive the completed evaluations;**

(n) **Ensure that claims of violations and abuses of human rights related to exposure to toxic chemicals and wastes are justiciable;**

(o) **Require business entities operating in Sierra Leone to conduct human rights due diligence in general and with a specific requirement to evaluate the risks and impacts of exposure to toxic substances.**

83. **The Special Rapporteur recommends that business enterprises:**

(a) **Put into effect the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework with respect to their activities that produce, use, release and otherwise may result in human exposure to toxic substances;**

(b) **Internalize the costs of chemicals and waste management;**

(c) **Increase transparency with regard to their activities and interactions with the Government by communicating information externally, particularly when concerns are raised by or on behalf of affected stakeholders over exposure to hazardous substances and wastes;**

(d) **Avoid the use of chemical products and practices that are forbidden in the economies and countries in which they are domiciled, especially in cases where those home States provide stronger protection from exposure to hazardous substances and wastes;**

(e) **Increase protection from exposure to pesticides and other toxic chemicals for children and women of childbearing age. This emanates from the Special Rapporteur's concern that some children accompany their parents to farms, plantations, mines and other workplaces with risks of exposure to toxics.**